

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **VICE CHAIRMAN MIKE TAYLOR**, on April 8, 1999 at 3:05 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Al Bishop (R)
Sen. William Crismore (R)
Sen. Steve Doherty (D)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Bea McCarthy (D)
Sen. Chuck Swysgood (R)
Sen. Jack Wells (R)

Members Excused: Sen. Ken Mesaros, Chairman (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Adrienne Pillatzke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 647, 4/8/1999; HB 626,
4/8/1999; HB 341, 4/8/1999;
HJR 33, 4/8/1999
Executive Action: HJR 33; HB 626; HB 647; HB 341

HEARING ON HB 647

Sponsor: REPRESENTATIVE BOB RANEY, HD 22, Livingston

Proponents: John Munding, MT Stockgrower's Association
Cary Hegreberg, MT Wood Products
Bill Snody, McDonald Gold Project
REPRESENTATIVE CLIFF TREXLER, HD 59, Hamilton

Opponents: Mike Foster, MT Contractors' Association
Pat Graham, Fish, Wildlife and Parks
Jerry Wells, MT Chapter of American Fisheries
Society
Mike Volesky, Self

Opening Statement by Sponsor:

REPRESENTATIVE BOB RANEY, HD 22, Livingston, entered additional sponsors which was not shown on the bill, **EXHIBIT(fis76a01)** and entered an article from *The Oregonian*, **EXHIBIT(fis76a02)**. He said HB 647 creates a Bull Trout Habitat Program. The bill will mirror the future fisheries program which was presently in place. The bill creates another panel, which is similar to the future fisheries panel, whose makeup is directed towards western Montana where the fish live. The bill brought in the Department of Transportation voluntarily.

{Tape : 1; Side : A; Approx. Time Counter : 3.3}

Proponents' Testimony:

John Munding, MT Stockgrowers Association, supported HB 647 because they think the future fisheries program is a constructive program which served as a good model for addressing endangered species.

Cary Hegreberg, MT Wood Products, said HB 647 provides innovative constructive and hands-on solutions to a very perplexing problem for the state of Montana. Forest products industry acknowledges and accepts their role in maintaining and enhancing habitat for native fish. He commented on actions taken in Montana which have impacted fish habitat. The number one reason for the decline in Bull Trout and Cutthroat Trout populations is the introduction of non-native fish into our waters. He entered a proposed amendment, **EXHIBIT(fis76a03)**.

Bill Snody, McDonald Gold Project, supported HB 478 because the bill went hand in hand with the efforts they have made at McDonald Gold Project. He said if the bill was passed, they would be happy to make available copies of their studies on the assessment of fish populations in the upper Blackfoot River Basin. The reports, which were done in 1996 and 1997, detail

Bull Trout populations, Cutthroat Trout populations and all other fish species populations. He said Copper Creek is a native hatchery and has no non-native species in its waters.

{Tape : 1; Side : A; Approx. Time Counter : 7.8}

Opponents' Testimony:

Mike Foster, MT Contractors' Association, said their opposition of HB 647 varies around the references to the Department of Transportation and the Montana Transportation Commission. He referred to page 5, lines 5-7. He sees the Transportation Commission is going to be directed to provide funding in the "largest practicable portion". He said he does not know what the wording means. He commented on the Highway Trust Fund. He commented on the Fiscal Note. The organization would prefer all references to the Department of Transportation or the Transportation Commission would be deleted from the bill to make sure they don't have any problems with matching funds or taking money away from construction of highways.

Pat Graham, Fish, Wildlife and Parks, entered written testimony, **EXHIBIT(fis76a04)** and proposed amendment, **EXHIBIT(fis76a05)**.

Jerry Wells, MT Chapter of American Fisheries Society, said they don't support HB 647 because they believe the mechanism for dealing with already exists. They believe the local knowledge and local residents should be more involved with restoring fish species. They are concerned with how the program would interact with the local groups.

Mike Volesky, Self, commented on the existing fishery program. He said Bull Trout and Cutthroat Trout streams have benefitted from the money funded from the existing program. He said the intent is to get more money towards the two species but he thinks it can be done by the existing panel.

**{Tape : 1; Side : A; Approx. Time Counter : 17.4; Comments :
Proponent was allowed to testify late.}**

Proponents' Testimony: continued.

REPRESENTATIVE CLIFF TREXLER, HD 59, Hamilton, said the Future Fisheries Committee is a wonderful program. He said the program is state-wide. He said all they are going to do is put more responsibility onto the FWP because they are overloaded. The bill will affect the fishing, logging, road building and agriculture of Montana.

{Tape : 1; Side : A; Approx. Time Counter : 18.1}

Questions from Committee Members and Responses:

SENATOR BECK asked if the money was going to come out of the Resource Indemnity Trust. **REPRESENTATIVE RANEY** replied in the next session, not this session. **SENATOR BECK** asked if the money was going to the fishery committee for them to distribute as they see fit. **REPRESENTATIVE RANEY** replied he was correct.

SENATOR BECK asked why this could not be done in long range building like the rest of the grants only emphasis the restoration projects which would enhance the Bull Trout. **REPRESENTATIVE RANEY** responded he had thought about trying the process at the beginning. He said they could put language in the bill which would further restrict the use of the RIT money. They are trying to get the Bull Trout off the Endangered Species List so people can mine or log in the future and that is why they wanted to use money from other sources. **SENATOR BECK** said they are all in agreement with trying to get the Bull Trout off the Endangered Species List. They could emphasis some of the grants going into streams which are affecting the Bull Trout. He would rather do it with the professionals who would say which streams need work done. **REPRESENTATIVE RANEY** replied instead of going through the regular grants program of RIT to go to the committee where the professionals would know the best place to spend the money.

SENATOR MCCARTHY said they didn't need any money this session. She asked if they would need 1/2 million dollars in two years. **REPRESENTATIVE RANEY** replied they are taking the money from the fishermen license account. He said in two years they would need 1/2 million dollars a year which would come from the RIT. **SENATOR MCCARTHY** asked if it would continue indefinitely. **REPRESENTATIVE RANEY** said until another legislature changed it.

SENATOR BECK asked if the bill will sunset in the year 2009. **REPRESENTATIVE RANEY** replied yes.

SENATOR CRISMORE asked about page 5 where it discussed the commission money and the Highway Department. **REPRESENTATIVE RANEY** replied the other language in the bill was delicately put together by DOT. He commented on the meeting with DOT and their compromise on the language.

{Tape : 1; Side : A; Approx. Time Counter : 22}

Closing by Sponsor:

REPRESENTATIVE BOB RANEY, HD 22, Livingston, commented on articles from the *Montana* magazine on the Future Fisheries program and of the Bull Trout program. He asked if Montana wants to put the future of our economy in trusting the Federal Government will come forward and save the fish. He said we must do it. The answer to recover the fish is habitat.

SENATOR TAYLOR noted the MT Farm Bureau was a proponent of HB 647.

{Tape : 1; Side : A; Approx. Time Counter : 26.1}

HEARING ON HB 626

Sponsor: **REPRESENTATIVE HAL HARPER, HD 52, Helena**

Proponents: **Michael McNeilly, Lewis & Clark Expedition**
Bob Fitzgerald, Helena
Jim Errands, Helena
Robin Cunningham, MT River Action Network and
Fishing Outfitters Association
Bill Orsello, MT Wildlife Federation
Pat Graham, Fish, Wildlife and Parks
Lisa Bay, Self
Dick Porte, Self
Janet Ellis, MT Audubon
Jerry Wells, MT Trout Unlimited

Opponents: **Clyde Drewney, Self**

Opening Statement by Sponsor:

REPRESENTATIVE HAL HARPER, HD 52, Helena said HB 626 deals with regulating operations of motor boats and jet skis. The bill comes from requests of constituents who have been deprived of use of their cabins on lakes. They want to use the bill as a proactive method to avoid some of the conflict between motor boats and jet ski operators and the public. He explained the intent of the bill. He said the bill will solve a number of problems and a number of conflicts before they happen.

{Tape : 1; Side : A; Approx. Time Counter : 35.7}

Proponents' Testimony:

Michael McNeilly, Lewis & Clark Expeditions, said the root of the problem has to do with a lack of common courtesy. He said if the jet skiers could attempt to slow down or go to an area more

suitable for their purposes, there would be no need for the bill.

Bob Fitzgerald, Helena, said out-of-state fishers drive too far to come fishing to see the uncontrolled jet skiers. He also said the people who came back to Montana to live here also didn't move here to see it.

Jim Errands, Helena, said jet skis are unsafe and someone will be killed from the rocks in the Missouri River. He urged the committee's support for HB 626.

Robin Cunningham, MT River Action Network and Fishing Outfitters Association, said they were in support of HB 626 for the reasons already described.

Bill Orsello, MT Wildlife Federation, supported HB 626.

Pat Graham, Fish, Wildlife and Parks, entered written testimony, **EXHIBIT(fis76a06)** and proposed amendments, **EXHIBIT(fis76a07)**.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Lisa Bay, Helena, said less than 5% of Americans own personal water craft but they are able to ruin a recreational experience for the rest of America. She urged for the passage of HB 626.

Dick Porte, Helena, provided written testimony, **EXHIBIT(fis76a08)**.

Janet Ellis, MT Audubon, entered a witness statement, **EXHIBIT(fis76a09)**.

Jerry Wells, MT Trout Unlimited, wanted to add their support to HB 626.

{Tape : 1; Side : B; Approx. Time Counter : 1.2}

Opponents' Testimony:

Clyde Drewney, Self, said the bill started out as a bad bill. It would have eliminated the use of motor boats for a hundred miles on the Missouri River. He said it is inappropriate for the Legislature to make the decisions on the speed of a boat for a particular stretch of river. He said it should be done through an administrative process in which the users of the river are notified of the action that is going to take place. He encouraged the committee not to legislate the speed of boats on particular stretches of a river but allow the FWP to do it through their administrative process.

{Tape : 1; Side : B; Approx. Time Counter : 2.2}

Questions from Committee Members and Responses:

SENATOR BECK asked what the reason was for amending the bill to restrict operating a vessel within 50 feet of a person engaged in fishing and hunting water fowl. **REPRESENTATIVE HARPER** replied Speaker Mercer told him 200 feet was too far for a motor boat and he was going to amend it to 50 feet. **SENATOR BECK** said the FWP had proposed an amendment to change it back to 200 feet.

REPRESENTATIVE HARPER replied he knew Speaker Mercer lives on a lake and operates a boat. Speaker Mercer felt it was too far.

SENATOR BECK said if the restriction was 200 feet and someone was on a stream then the stream would have to be 400 feet wide.

REPRESENTATIVE HARPER replied he was correct if the person was standing in the middle of the stream. He wanted to add the language which would make the motorist cut back the speed but could go on through. He commented on the current law.

SENATOR MCCARTHY asked if Representative Harper objected to the section from the FWP about the speed limit. **REPRESENTATIVE HARPER** replied he thought all of their amendments were fine. He commented about the opponent's testimony about the FWP being allowed to put out a notice and pass the law. He said don't put a speed limit in the bill just make sure the commission has the authority through the rule making process as the opponent said.

{Tape : 1; Side : B; Approx. Time Counter : 4.6}

Closing by Sponsor:

REPRESENTATIVE HAL HARPER, HD 52, Helena, hoped the bill covered some of the concerns which they had in a bill sponsored by Senator Ellingson.

{Tape : 1; Side : B; Approx. Time Counter : 5.2}

HEARING ON HB 341

Sponsor: **REPRESENTATIVE RALPH LENHART, HD 2, Glendive**

Proponents: **Rusty Harper, State Auditor's Office**
Joe Lamson, State Superintendent's Public
Instruction
Amy Myran, Friends of Makoshika
Dena Hoff, Self
Gloria Paladichuk, City of Glendive

SENATOR RIC HOLDEN, SD 1, Glendive

Opponents: **Bud Clinch, Department of Natural Resource and
Conservation**

Opening Statement by Sponsor:

REPRESENTATIVE RALPH LENHART, HD 2, Glendive, entered three letters, **EXHIBIT(fis76a10)**, **EXHIBIT(fis76a11)**, and **EXHIBIT(fis76a12)**. He also entered a fact sheet on HB 341, **EXHIBIT(fis76a13)**. He commented on Makoshika State Park. The bill hopes to prevent disturbance of the park's surface from the drilling of oil and gas mineral inside the park. The bill directs FWP to conduct negotiations with owners of the private mineral rights within the park, to acquire the rights in the name of the state, and to report the results of the negotiations to the next legislative session.

{Tape : 1; Side : B; Approx. Time Counter : 8.5}

Proponents' Testimony:

Rusty Harper, State Auditor's Office, said Mr. O'Keefe supports HB 341. He said the important part of the bill is the part directing the FWP to negotiate the private mineral rights.

Joe Lamson, State Superintendent's Public Instruction, represented Nancy Keenan. He commented on an agreement between Mr. O'Keefe and the land board which worked out with various interests. The bill gives further protection to the state park.

Amy Myran, Friends of Makoshika, said a resource has been defined as anything obtained for a living and nonliving environment to meet our needs and wants. She passed around photos of Makoshika State Park.

Dena Hoff, Self, said Makoshika State Park is less than 1% of one county in the state and is worth protecting. She said 60,000 people last year came to see the state park.

Gloria Paladichuk, City of Glendive, said they support the passage of HB 341. Makoshika State Park attracts visitors from all over the country who contribute to the economy of Glendive.

SENATOR RIC HOLDEN, SD 1, Glendive, said it is important for the committee to realize Makoshika State Park is very fragile area. He commented on the beauty of Makoshika State Park. He said initially he was opposed to HB 341. He referred to page 1, lines 22-30 which didn't include protection of the private property rights. The state owns a section of land in the park which has potential revenue to the state. He referred to page 2, lines 12-18. He said is critical for the committee to question the FWP to find out what bill the money is appropriated in and where it is at and how much it is.

{Tape : 1; Side : B; Approx. Time Counter : 16.4}

Opponents' Testimony:

Bud Clinch, Department of Natural Resource and Conservation, represented MT Board of Oil and Gas. He listed the five reasons they were in opposition of the bill. He entered and explained a map of Makoshika State Park, **EXHIBIT(fis76a14)**. He also represented the MT School Trust Lands. He referred to **exhibit #14**. He entered the Grant Deed from 1984, **EXHIBIT(fis76a15)**, where the FWP acquired the property. He said the bill seemed to protect other interests and the only mineral owner in Makoshika Park that is affected by the bill is the School Trust Lands.

{Tape : 1; Side : B; Approx. Time Counter : 23.5}

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REPRESENTATIVE RALPH LENHART, HD 2, Glendive, said a lot of the land in question is on the park boundary. He said there is no problem with setting up a drilling station outside the park boundaries and using directional drilling or horizontal drilling. They are trying to protect the land inside the boundary of the park. The bill protects the surface area from damage caused by any oil or gas exploration, the beauty of the park, private rights and protects and ensures a constant flow of tourism dollars into the community.

{Tape : 1; Side : B; Approx. Time Counter : 25.6}

HEARING ON HJR 33

Sponsor: REPRESENTATIVE DICK HAINES, HD 63, Missoula

Proponents: Pat Graham, Fish, Wildlife and Parks

Opponents: None.

Informational: John Mundinger, MT Stockgrowers Association,

Opening Statement by Sponsor:

REPRESENTATIVE DICK HAINES, HD 63, Missoula, explained what HJR 33 intent was. He referred to page 2, lines 22-26. He said 2/3 of the money which FWP has comes from license fees of nonresident sportsmen. The number of resident hunters and fishermen are not going up so that source of funding is not helping.

Proponents' Testimony:

Pat Graham, Fish, Wildlife and Parks, provided written testimony, **EXHIBIT**(fis76a16).

Opponents' Testimony: None.

Informational Testimony:

John Mundinger, MT Stockgrowers Association, said they are comfortable with the study as it is proposed. They wanted to suggest the context might be broader. He commented on the original wildlife conservationists in Montana who were the hunters and landowners. He would like to see the interim committee deal with the issue in a broader perspective.

Questions from Committee Members and Responses:

SENATOR TAYLOR asked if the bill was passed out of the committee, did Representative Haines have a preference where the study to go. **REPRESENTATIVE HAINES** said he didn't have a preference. He would like to see a subcommittee with someone from FWP.

Closing by Sponsor:

REPRESENTATIVE DICK HAINES, HD 63, Missoula, would like to be part of the process. He would like to talk about what the FWP does, what their responsibilities are and how do we want to fund it.

{Tape : 1; Side : B; Approx. Time Counter : 36.4; Comments : Tape stopped and resumed at 4:36 pm.}

EXECUTIVE ACTION ON HJR 33

Motion/Vote: SEN. DOHERTY moved that HJR 33 BE ADOPTED. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB 626

Motion: SEN. BECK moved that HB 626 BE CONCURRED IN.

Motion: SEN. CRISMORE moved that FWP's AMENDMENT BE ADOPTED.

Discussion:

Leanne Kurtz explained the FWP's amendment. She asked Pat Graham if the amendment included the 200-foot safety zone. Mr. Graham clarified the explanation of the amendments. He said they were not recommending a 200 foot safety zone.

Substitute Motion: SEN. BECK made a substitute motion to SEGREGATE #4, #5, AND #6 OF THE AMENDMENT.

Discussion:

SENATOR BECK explained why he wanted to segregate #4, #5, and #6 from the amendment.

Vote: Motion carried unanimously.

SENATOR ELLINGSON said he sensed some reluctance on part of the committee to establish a speed limit. He suggested as a conceptional amendment that they authorize the Department of Fish, Wildlife and Parks to adopt rules and regulations which would regulate the speed on rivers.

Leanne Kurtz believed the commission could already do that under 871-303.

SENATOR EKEGREN asked how fast are jet skis capable of going. SENATOR TAYLOR replied he believed the can go up to 60 mph or even faster. SENATOR EKEGREN said it would seem reasonable to consider a speed limit.

SENATOR WELLS agreed with Leanne Kurtz that the commission can set the speed limit. He did not think one speed limit will be appropriate for all rivers.

SENATOR DOHERTY asked Bob Lane to clarify if the FWP could set speed limits on rivers. Mr. Lane replied they do have authority

to regulate speeds on rivers but only for safety. He said that is a limitation on their authority. If they had full authority they would need some expression in 871-303 subsection 2.

SENATOR TAYLOR asked how would they enforce the speed limit on rivers. **Bob Lane** said they could enforce it. They would address each situation on a river by river basis.

SENATOR DOHERTY restated the FWP can only set speed limits for public safety but not to diminish the potential conflicts. He didn't know if Senator Ellingson's memo would be appropriate or whether they should give the commission additional authority. **Leanne Kurtz** said FWP mentioned public welfare and she thought that might do it. **Bob Lane** replied the general broad legal category to give authority to the agency would be in terms of public welfare. It would give the department the ability to address all of the issues.

Substitute Motion/Vote: **SEN. ELLINGSON** moved that **CONCEPTIONAL AMENDMENT WHICH GAVE THE FWP AUTHORITY TO ADOPT RULES AND REGULATIONS TO REGULATE SPEED ON RIVERS BE ADOPTED. Motion carried unanimously.**

SENATOR CRISMORE withdrew his motion.

SENATOR WELLS explained why would like to have a 100 foot operating distance.

Substitute Motion/Vote: **SEN. WELLS** made a substitute motion that **100 FOOT OPERATING DISTANCE ON PAGE 2, LINE 11 BE ADOPTED. Motion carried unanimously.**

Substitute Motion: **SEN. BISHOP** made a substitute motion that **STRIKE LINES 14, 15 AND 16 ON PAGE 4. BE AMENDED.**

Discussion:

SENATOR BISHOP explained why he would like the proposed amendment.

SENATOR ELLINGSON said the speed limit only applies to personal water craft. He spoke against the amendment because he had serious reservations about personal water craft being on any of Montana's rivers.

SENATOR TAYLOR asked if someone kills themselves in a jet ski accident, who do they sue. **Bob Lane** replied they would sue

anybody they could. The state is often named in the suits. The department is not usually liable for those kind of accidents.

SENATOR BECK asked where Beaver Creek and Pruitt Creek was located. **Pat Graham** said Beaver Creek enters the Missouri River downstream from Hauser Dam. He said Pruitt Creek is located between Craig and Cascade.

Vote: Motion failed 3-8 with Beck, Bishop and Ekegren voting aye.

Motion/Vote: SEN. BECK moved that HB 626 BE CONCURRED IN AS AMENDED. Motion carried 11-1 with Swysgood voting no.

{Tape : 2; Side : A; Approx. Time Counter : 16.4}

EXECUTIVE ACTION ON HB 647

Motion: SEN. MCCARTHY moved that HB 647 BE CONCURRED IN.

Motion: SEN. DOHERTY moved that FISH, WILDLIFE AND PARKS AMENDMENT #3 AND #4 BE ADOPTED.

Discussion:

SENATOR BECK asked what the difference between recovery and enhancement. **Pat Graham** replied recovery is a term used in the Federal Endangered Species Act. The use of the word "developing a recovery plan" would imply it has some kind of legal connotation.

Vote: Motion carried unanimously.

Motion: SEN. DOHERTY moved that AMEND PAGE 7, LINE 24. FOLLOWING SECTION 1 TO ADD "THE BULL TROUT ENHANCEMENT PANEL MUST PRIORITIZE RIT INTEREST FUNDS FOR MINERAL RECLAMATION PROJECTS". BE ADOPTED.

Discussion:

SENATOR DOHERTY asked for an explanation of the RIT money. **John Tubbs, DNRC**, replied the RIT money to be available in two years. The amendment would restrict any reclamation projects would be prioritized for the use of those funds. If they weren't reclamation projects, they could be used for other purposes.

Vote: Motion carried unanimously.

Motion: SEN. CRISMORE moved that FISH, WILDLIFE AND PARKS AMENDMENTS #1, #2, #5, #6, #7, #8-#12 BE ADOPTED.

Discussion:

SENATOR TAYLOR asked Pat Graham for an explanation on the amendment proposed. Pat Graham explained the amendments.

SENATOR DOHERTY said the amendment gets rid of the panel and the money.

SENATOR BECK said he was going to vote against the amendments because it cut some the funding.

SENATOR CRISMORE said he would not support the bill without the amendment.

Vote: Motion failed 2-8 with Crismore and Wells voting aye.

Motion/Vote: SEN. MCCARTHY moved that HB 647 BE CONCURRED IN AS AMENDED. Motion carried 9-3 with Crismore, Swysgood and Wells voting no.

{Tape : 2; Side : A; Approx. Time Counter : 26.2}

EXECUTIVE ACTION ON HB 341

Motion: SEN. DOHERTY moved that HB 341 BE CONCURRED IN.

Discussion:

SENATOR WELLS said the amendment adopted which directed the FWP to conduct negotiations with owners of private mineral rights. He asked what kind of funding did the department have to do the negotiations. Pat Graham replied they asked for an amendment to HB 5 to add an additional \$100,000 to the park's fund for the negotiations. The amendment was approved in the House. SENATOR WELLS asked how they came up with the figure of \$100,000. Mr. Graham replied they just tried to get an estimate.

Leanne Kurtz read and explained the amendment to the committee.

Motion: SEN. BECK moved that FISH, WILDLIFE AND PARKS AMENDMENTS BE ADOPTED.

Discussion:

SENATOR DOHERTY asked how the sponsor felt about the amendment. Representative Lenhart replied he was disappointed in the amendment. He thought the language in the bill adequately addressed everybody.

SENATOR BECK said the state has been sued for not getting the full value out of their state lands. The amendments will recognize the private persons and recognize the state has some mineral values in Makoshika State Park.

SENATOR TAYLOR asked how much are the mineral rights worth. **Bud Clinch** said they cannot sell the mineral rights to FWP. The Enabling Act which granted mineral rights to the states prohibits the states from ever divesting themselves of mineral rights through the sale. The only way to get out of the issue is through an exchange. He commented on the negotiation with the FWP. **SENATOR TAYLOR** asked if the amendment would allow the DNRC to be in on the negotiations and they are currently in the process of negotiations. **Bud Clinch** replied correct.

SENATOR DOHERTY said they are not out of the loop, they are negotiating. **SENATOR BECK** responded they don't have any authority in the bill to do it.

SENATOR DOHERTY asked then how are they doing it now. **Bob Lane** replied they have appropriations for it. The department and commission have general authority to deal with land matters which are under their charge. They have proprietary authority to manage the lands.

SENATOR TAYLOR said whether the amendments are adopted or not it won't make any difference to FWP. **Mr. Lane** said they have the authority to continue to negotiate with the DNRC.

SENATOR TAYLOR asked if FWP would mind the amendments. **Pat Graham** replied he does not believe they would create any problems.

SENATOR ELLINGSON asked if FWP were currently in the process of negotiating land swap. **Mr. Graham** said they were in the process of negotiating and it is a priority for them. **SENATOR ELLINGSON** asked if the amendment would be any benefit to the FWP. **Mr. Graham** said he would have to defer to the DNRC. The amendment did not affect the negotiations.

SENATOR ELLINGSON asked if the amendment would help the DNRC. **Bud Clinch** said the amendment would help the DNRC. The amendment

would give the department the assurance they will carry forth with the negotiations.

Vote: Motion carried 9-3 with Bishop, Doherty and McCarthy voting no.

Motion/Vote: SEN. DOHERTY moved that HB 341 BE CONCURRED IN AS AMENDED. Motion carried 11-1 with Swysgood voting no.

ADJOURNMENT

Adjournment: 5:25 P.M.

SEN. KEN MESAROS, Chairman

ADRIENNE PILLATZKE, Secretary

KM/AP

EXHIBIT (fis76aad)